

SUBCHAPTER B: MOTOR VEHICLE ANTI-TAMPERING REQUIREMENTS

§114.20, §114.21

Effective May 22, 2003

§114.20. Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles.

(a) Any person owning or operating any motor vehicle or motor vehicle engine on which is installed or incorporated a system or device used to control emissions from the motor vehicle in compliance with federal motor vehicle rules shall maintain the system or device in good operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated.

(b) No person may remove or make inoperable any system or device used to control emissions from a motor vehicle or motor vehicle engine or any part thereof, except where the purpose of removal of the system or device, or part thereof, is to install another system or device, or part thereof, which is equally effective in reducing emissions from the vehicle. Acceptable removal and/or installation practices include:

(1) Replacement of the engine of a vehicle if:

(A) the design of the replacement engine has received prior approval of the EPA;

(B) the design of the replacement engine is compatible with the vehicle chassis such that all applicable pollution control systems and devices are properly installed and operable; and

(C) the resulting vehicle is identical, with regard to all emission-related parts and emission-related engine design parameters and calibrations, to the same or a newer model year vehicle, as originally equipped.

(2) Replacement of a catalytic converter on a vehicle if:

(A) the replacement catalyst is an original equipment manufacturer's catalyst or an aftermarket catalyst accepted by EPA; and

(B) conformance with subparagraph (A) of this paragraph is documented during the inspection of the vehicle, or upon request.

(3) Installation of conversion equipment to allow the use of an approved alternative fuel, if the conversion kit components are recognized by the Texas Railroad Commission as complying with applicable safety requirements.

(4) Replacement or installation of any other system or device if:

(A) the system or device can be demonstrated to be at least as effective in reducing emissions as the original equipment; and

(B) conformance with subparagraph (A) of this paragraph is documented, upon request.

(c) No person may sell, offer for sale, lease, or offer to lease in the State of Texas any motor vehicle unless all of the following conditions are met:

(1) The motor vehicle shall be equipped with either the control systems or devices that were originally a part of the motor vehicle or motor vehicle engine or an alternate control system or device as designated in subsection (b) of this section.

(2) The control systems or devices required in paragraph (1) of this subsection shall be in good operable condition.

(3) A notice of the prohibition and requirements of this subsection shall be displayed at all commercial motor vehicle sales facilities, vehicle consignment lots, and other businesses in Texas which sell, offer for sale, lease, or offer to lease more than three used vehicles per year. The notice shall be displayed in a conspicuous and prominent location near each customer entrance way and in each sales or lease office. The notice shall read, "State law prohibits any person from selling, offering for sale, leasing, or offering to lease any vehicle not equipped with all emission control systems or devices in good operable condition. Violators are subject to penalties under the TCAA of up to \$25,000 per violation." This notice shall be no smaller than 8 inches by 10 inches (20.32 cm by 25.4 cm) and shall be clearly visible to all customers.

(d) Any part or component of an air pollution control system or device of a motor vehicle or motor vehicle engine equipped with such air pollution control system or device in compliance with federal motor vehicle rules shall not be replaced with a different part or component unless such part or component is designated as a replacement for the specific make and model of the vehicle or vehicle engine.

(e) No person may sell, offer for sale, or use any system or device which circumvents or alters any system, device, engine, or any part thereof, installed by a vehicle manufacturer to comply with the Federal Motor Vehicle Control Program during actual in-use operation of a motor vehicle on Texas roadways. A notice of the prohibitions and requirements of this subsection shall be displayed at all motor vehicle parts, supply, repair, alternative fuel conversion, or other vehicle service facilities in Texas which sell, offer for sale, install, or offer to install any vehicle emission control, exhaust system or device, aftermarket alternative fuel conversion, or engine. The notice shall be displayed in a prominent and conspicuous location near each consumer entrance way and service counter. The notice shall read: "State law prohibits any person from selling, offering for sale, or using any system or device for the purpose of circumventing the emission control device on a vehicle or vehicle engine. State law also prohibits any person from removing or disconnecting any part of the emission control system of a motor vehicle, except to install replacement parts which are equally effective in reducing

emissions. Violators are subject to penalties under the TCAA of up to \$25,000 per violation." This notice shall be no smaller than 8 by 10 inches (20.32 cm by 25.4 cm) and shall be clearly visible to all customers.

Adopted November 5, 1997

Effective December 1, 1997

§114.21. Exemptions.

(a) The following exemptions shall apply to specified motor vehicles or motor vehicle engines.

(1) Motor vehicles or motor vehicle engines which are intended solely or primarily for legally sanctioned motor competitions, for research and development uses, or for instruction in a bona fide vocational training program where the use of a system or device would be detrimental to the purpose for which the vehicle or engine is intended to be used are exempt from the provisions of §114.20(a), (b), and (d) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles).

(2) Motor vehicles or motor vehicle engines intended solely or primarily for research and development uses, or for instruction in a bona fide vocational training program where the introduction of leaded gasoline or the circumvention of an emission control system or device is necessary for the intended purposes of the program are exempt from the provisions of §114.20(e) of this title.

(b) Vehicles belonging to members of the U.S. Department of Defense (DoD) participating in the DoD Privately Owned Vehicle Import Control Program or other persons being transferred to a foreign country are exempt from the provisions of §114.20(a), (b), and (d) of this title if the following conditions are met.

(1) Only the catalytic converter, oxygen sensor, and/or the fuel filler inlet restrictor are removed from the vehicle.

(2) The vehicle is delivered to the appropriate port for overseas shipment within 30 days after the emission control device(s) is removed.

(3) If the vehicle is returned to the United States, all systems or devices used to control emissions from the vehicle are restored to good operable condition within 30 days of pick-up of the vehicle from the appropriate port of importation.

(4) Documentation shall be kept with the vehicle at all times while the vehicle is operated in Texas which provides sufficient information to demonstrate compliance with all appropriate qualifications and conditions of this exemption, including the following:

(A) the unique vehicle identification number (VIN) of the subject vehicle;

(B) the agency, company, or organization which employs the owner of the subject vehicle;

(C) the country to which the owner of the subject vehicle is being transferred;

(D) the dates when applicable alterations were performed on the subject vehicle;

(E) the date when the subject vehicle is scheduled to be delivered to the appropriate port for shipment out of the United States; and

(F) the date when the subject vehicle is picked up from the port of importation upon returning to the United States.

(c) Motor vehicles are exempt from the provisions of §114.20(a), (b), and (d) of this title if the following conditions apply:

(1) the motor vehicles are registered as farm vehicles with the Vehicle Titles and Registration Division of the Texas Department of Transportation, are intended solely or primarily for use on a farm or ranch, and their air pollution control devices or systems were removed or made inoperable prior to June 1, 2000; or

(2) the motor vehicles were granted an exemption from the provisions of §114.20(a) and (b) of this title by the commission or its predecessor agency prior to June 1, 2000.

(A) A copy of the exemption shall be kept with the vehicle at all times and shall be available for inspection by representatives of the commission, the Texas Department of Public Safety (DPS), or any other law enforcement agency upon request. The approved exclusion shall also be presented to the certified vehicle inspector before each annual vehicle safety inspection of the vehicle as administered by the DPS.

(B) The exemption shall be void and all pollution control systems and devices replaced on the vehicle and/or engine covered by the exclusion when the vehicle changes ownership or is no longer used for the purpose identified in the exclusion application. The executive director shall be informed in writing prior to the change of ownership or usage.

(d) The following vehicle transactions involving a "dealer" as defined in Texas Transportation Code, §503.001, are exempt from the requirements of §114.20(c) of this title:

(1) sales or transfers from one dealer to another; and

(2) sales, transfers, or trade-ins from an individual to a dealer.

(e) Federal, state, and local agencies or their agents which sell abandoned, confiscated, or seized vehicles and any commercial vehicle auction facilities are exempt from the provisions of §114.20(c) of this title if the following conditions are met.

(1) The DPS motor vehicle safety inspection certificates must be removed from the vehicle and destroyed before the vehicle may be offered for sale or displayed for public examination.

(2) All potential buyers of the vehicle must be informed that deficiencies may be present in the vehicle pollution control systems on the vehicle. The buyer must also be informed of the liabilities to the buyer under §114.20 of this title and §114.50 of this title (relating to Vehicle Emissions Inspection Requirements) of operating the vehicle prior to the adequate restoration of all pollution control systems or devices on the vehicle as originally equipped. The seller of the vehicle shall provide to the buyer a written acknowledgment of the receipt of this information which must be signed by the buyer prior to completion of the sales transaction. The seller shall retain a copy of this signed acknowledgment for two years and shall make it available, upon request.

(f) The owner of a motor vehicle which has been totally disabled by accident, age, or malfunction and which will no longer be operated is exempt from the provisions of §114.20(c) of this title if the DPS motor vehicle safety inspection certificate is removed and destroyed before the vehicle is offered for sale or displayed for public examination.

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Derivation Table
Rule Log No. 97163-114-AI
Reformat of Chapter 114
Adopted November 5, 1997
Effective December 1, 1997

Chapter 114 - Control of Air Pollution From Motor Vehicles
Subchapter B : Motor Vehicle Anti-Tampering Requirements

This table is to track sections after rule revisions. The column on the left lists the sections after the revision that is to be effective on December 1, 1997. The column on the right lists where the section was prior to the revision.

New Section	Old Section
114.20(a)-(d)	114.1(a)-(d)
deleted	114.1(e)
114.20(e)	114.1(f)
114.21	114.5